

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEIN & NIEPORENT LLP

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Attorneys for Defendant

Jose Quezada, Individually, and On Behalf
of All Others Similarly Situated,

Plaintiff,

- vs. -

Electric Bike Technologies Inc.,

Defendant.

DOCKET NO. 22-cv-4867
(RA) (SN)

ANSWER

Defendant Electric Bike Technologies Inc., by and through its undersigned attorneys, answers the complaint of plaintiff Jose Quezada as follows:

INTRODUCTION

1. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to plaintiff, and therefore denies same. With respect to the remaining allegations of the paragraph, defendant admits that plaintiff purports to assert those claims but denies that the claims have merit.
2. Defendant admits that the website offers electric bikes for sale, but denies all other allegations about the website. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the remaining allegations of this paragraph, and therefore denies same.

3. Denied.
4. Denied.
5. Defendant admits that plaintiff seeks such relief, denies that there is any class seeking any such relief, and denies plaintiff's entitlement to any relief.

JURISDICTION AND VENUE

6. Admitted.
7. This paragraph contains legal argument rather than factual allegations which need be admitted or denied.
8. Denied.
9. Denied.
10. Admitted.
11. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to plaintiff, and therefore denies same. To the extent a response is required, the remaining factual allegations of this paragraph are denied.

THE PARTIES

12. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
13. Defendant admits that it is a corporation registered in Pennsylvania. The remaining allegations of this paragraph are denied.

SUBSTANTIVE ALLEGATIONS

14. This paragraph contains no allegations about defendant that need be admitted or denied.
15. This paragraph contains no allegations about defendant that need be admitted or denied.
16. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
17. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
18. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
19. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
20. Defendant admits that it owns and operates a website that sells electric bikes.

21. Denied.
22. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to plaintiff, and therefore denies same. The remaining allegations of this paragraph, relating to defendant's website, are denied.
23. Denied.
24. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph with respect to plaintiff, and therefore denies same. The allegations of this paragraph with respect to the website are denied.
25. Denied.
26. Denied.
27. Denied.
28. Denied.

CLASS ACTION ALLEGATIONS

29. Admitted that plaintiff seeks to certify such a class and subclass. Denied that plaintiff is entitled to do so.
30. This paragraph contains no allegations about defendant that need be admitted or denied.
31. Denied.
32. Admitted that the first two of the cited questions are common; denied that the third one is.
33. Denied.

34. Denied.

35. Denied.

36. Denied.

COUNT I
(VIOLATIONS OF THE ADA, 42 U.S.C. § 12101 *et seq.*)

37. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-36 as if fully set forth herein.
38. Admitted that plaintiff has accurately, though only partially, quoted a statute.
39. This paragraph contains legal argument that need not be admitted or denied. To the extent a response is required, the allegations of this paragraph are denied.
40. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.
41. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.
42. Admitted that plaintiff has accurately, though only partially, quoted a statute.
43. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
44. Denied.
45. Denied.

COUNT II
(VIOLATIONS OF THE NYCHRL, NYC ADMINISTRATIVE CODE § 8-101 et seq.)

46. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-45 as if fully set forth herein.
47. Admitted that plaintiff has accurately, though only partially, quoted a statute.
48. This paragraph calls for legal conclusions, rather than states facts which need be admitted or denied. To the extent a response is required, the allegations are denied.
49. This paragraph calls for a legal conclusion, rather than states facts which need be admitted or denied. To the extent a response is required, the allegations are denied.
50. Admitted that plaintiff has accurately, though only partially, quoted a statute . Denied that it applies to defendant.
51. Denied.
52. Denied.

COUNT III
(DECLARATORY RELIEF)

53. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-52 as if fully set forth herein.
54. Denied.
55. Denied.

AFFIRMATIVE DEFENSES

1. Plaintiff lacks standing to bring these claims.

2. Plaintiff's allegations fail to state a claim upon which relief may be granted.
3. Plaintiff's claims are barred by the doctrine of unclean hands.
4. The court should not exercise supplemental jurisdiction over the non-federal claims in this suit.
5. The relief requested by plaintiff would not be readily achievable.
6. Plaintiff was not a bona fide customer of defendant.
7. Plaintiff is barred from recovery by reason of the fact that plaintiff has not sustained any damages whatsoever resulting from the actions or inactions of defendant.
8. Part or all of plaintiff's damages — if any — are the result of plaintiff's failure to mitigate damages.
9. Plaintiff is not entitled to statutory or punitive damages or fines.
10. Plaintiff is unable to satisfy the criteria for maintaining a class action. The potential class and subclasses are not numerous or ascertainable. The questions of law or fact are not common to the potential class or subclasses. The claims of the plaintiff are not typical of the claims of the potential class or subclasses. The interests of the potential class and subclasses will not be fairly and adequately represented. Individual issues predominate over common issues.
11. In addition to the foregoing defenses, Defendant reserves the right to amend its Answer to raise any and all other additional affirmative and other defenses that may become evident during discovery and during any other proceeding in this action or pursue any available counterclaims against

Plaintiff as those claims become known during this litigation.

Wherefore, defendant respectfully demands judgment against plaintiff dismissing all counts of the Complaint, and awarding attorneys' fees, costs and disbursements, and such other, further, and different relief as the Court may deem just and proper.

Dated: July 26, 2022



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